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# FACT SHEET

## General Permit for Stormwater Discharges

### Associated With Industrial Activity

### From “Other Facilities”

**KPDES No.:** KYR000000

**AI No.:** 35050

**Permit Writer:** Cassie Campbell

**Date:** May 1, 2013

### Public Notice Information

Public Notice Start Date: March 1, 2013

Comment Due Date: April 1, 2013

Information concerning the public notice process may be obtained on the Division of Water’s Public Notice Webpage at the following address:

[http://dep.gateway.ky.gov/eSearch/Search\\_Pending\\_Approvals.aspx?Program=Wastewater&NumDaysDoc=30](http://dep.gateway.ky.gov/eSearch/Search_Pending_Approvals.aspx?Program=Wastewater&NumDaysDoc=30)

Comments may be filed electronically at the following e-mail address: [DOWPublicNotice@ky.gov](mailto:DOWPublicNotice@ky.gov)

Or by sending written comments to:

Division of Water  
Surface Water Permits Branch  
200 Fair Oaks Lane  
Frankfort, Kentucky 40601

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# **SECTION 1**

## **FACILITY INFORMATION**

## **1. FACILITIES COVERED**

Pursuant to 401 KAR 5:060, Section 8 [40 CFR 122.26, effective July 1, 2008] the following point source discharges of stormwater runoff are subject to the KPDES permit program: (1) the discharge of stormwater runoff associated with industrial activity or (2) a discharge, as determined by Kentucky Division of Water (KDOW), that contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the Commonwealth. This permit is available for any facility that would be required to have a KPDES permit due to the discharge of stormwater runoff associated with industrial activity provided the facility meets the eligibility and Notice of Intent (NOI) requirements of this permit. Operators of industrial facilities have the opportunity to certify a condition of "no exposure" if their industrial materials and operations are not exposed to stormwater (See Section 5.7 Conditional Exclusion for No Exposure).

### **1.1. Summary of Exclusions**

Facilities meeting any of the following criteria are not eligible for coverage under KYR00:

- 1) those that have obtained or are required to obtain an individual KPDES permit for discharge of non-stormwater wastewaters;
- 2) those that are subject to a promulgated national effluent guideline specific to stormwater discharges;
- 3) those that propose a new or expanded discharge of pollutants of concern to a water body that is categorized as Impaired for those pollutants of concern and for which an approved TMDL has been developed for those pollutants of concern; or
- 4) those that KDOW has determined are more appropriately addressed by an individual KPDES permit or alternate KPDES general permit.

### **1.2. Location**

Within the 120 counties of the Commonwealth of Kentucky

### **1.3. Treatment Provided**

The treatment provided is specific to the facility and is dependent upon the volume of stormwater runoff and sources of potential contamination.

### **1.4. Permitting Action**

This is a reissuance of a general KPDES permit to address stormwater runoff associated with industrial activities that are not more appropriately addressed by an individual KPDES permit or an alternate general KPDES permit.

## **SECTION 2**

### **RECEIVING WATER INFORMATION**

## **2. RECEIVING / INTAKE WATERS**

### **2.1. Receiving Waters**

Those water bodies of the Commonwealth that comprise the Mississippi and Ohio River basins and sub-basins within the political and geographic boundaries of Kentucky.

### **2.2. Stream Segment Use Classifications**

Includes all water bodies that have been designated by KDOW singularly or in combination as: Warmwater Aquatic Habitat, Coldwater Aquatic Habitat, Primary Contact Recreation, Secondary Contact Recreation, Outstanding State Resource Water, and/or Domestic Water Supply.

### **2.3. Stream Segment Antidegradation Categorization**

Included are those water bodies which have been categorized as High Quality Waters, Impaired Waters, Exceptional Waters or Outstanding National Resource Waters.

### **2.4. Stream Low Flow Condition**

The 7-day, 10-year low flow conditions of the receiving streams can range from zero (0) cubic feet per second (cfs) to 111,000 cfs for the Mississippi River.

**SECTION 3**  
**EFFLUENT LIMITATIONS**  
**AND**  
**MONITORING REQUIREMENTS**

### 3. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The purpose of KYR00 is to provide coverage for those facilities with stormwater discharges that are not more appropriately addressed by an individual KPDES permit or alternate general KPDES permit (stormwater or other). As such KYR00 does not address a specific category of facility (e.g. steel mills, power plants, etc.), but rather is available to all facilities who submit a Notice of Intent, meet the eligibility requirements, and abide by its terms and conditions. The diversity in eligible facilities also creates substantial variability in the types of primary and ancillary activities conducted on-site, the potential pollutants, and the volume, quality, and management of stormwater.

#### 3.1. Effluent Monitoring Requirements

KDOW is imposing the following effluent monitoring for selected parameters:

TABLE 2							
Effluent Characteristic	Units	Minimum	Monthly Average	Daily Maximum	Maximum	Frequency	Sample Type
Flow	MGD	N/A	Report	Report	N/A	2/Year	Instantaneous
TSS	mg/l	N/A	Report	Report	N/A	2/Year	Grab
Oil & Grease	mg/l	N/A	Report	Report	N/A	2/Year	Grab
pH	SU	Report	N/A	N/A	Report	2/Year	Grab
The abbreviation N/A in the preceding table means Not Applicable.							

#### 3.2. Non-Numeric Requirements

The non-numeric requirements of this permit consist of the selection, design, installation, and implementation of control measures, including best management practices, that “minimize” the discharge of pollutants resulting from precipitation events. EPA’s 2008 Multi-Sector General Permit (MSGP) defines the term “minimize” as “to reduce and/or eliminate to the extent achievable using control measures, including BMPs, that are technologically available and economically practicable and achievable in light of best industry practice.” KDOW is establishing the following non-numeric requirements that the operator shall implement through the facility’s Stormwater Pollution Prevention Plan (SWPPP). The operator shall document compliance with these non-numeric requirements.

##### 3.2.1. Control Measures

The operator shall select, design, install, and implement control measures and best management practices (BMPs) that consider the following:

- 1) Prevention of stormwater contact with materials that may contaminate the stormwater;
- 2) Use of control measures in combination;
- 3) Assess pollutant types and quantity and their potential impact on water quality;
- 4) Minimizing impervious surfaces;
- 5) Optimizing onsite infiltration of runoff;
- 6) Use of vegetated swales and natural depressions to attenuate flows;
- 7) Conservation and/or restoration of riparian buffers; and
- 8) Use of treatment interceptors

The candidate control measures and BMPs shall be in accordance with good engineering practices and manufacturer’s specifications. The operator shall provide justification and documentation of rationale for any deviation from the manufacturer’s specification in the SWPPP.

##### 3.2.2. Minimize Exposure

The operator shall minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff. In minimizing exposure, the operator should consider the following:



- 1) Locating industrial materials and activities inside or protecting them with storm resistant coverings;
- 2) The use of specific control measures to prevent runoff of contaminated flows and divert run-on away from these areas (e.g. curbing, berms, and grading);
- 3) Locating raw materials, intermediate products, final products, wastes, etc. in areas where leaks or spills are contained;
- 4) Maintaining and storing equipment and vehicles indoors when feasible otherwise drain fluids and use drip pans and absorbents;
- 5) Conducting activities so that leaks or spills do not enter the stormwater drainage system;
- 6) Promptly containing and cleaning up leaks and spills using dry methods;
- 7) The strategic location of spill/overflow protection equipment for immediate accessibility;
- 8) Conducting equipment and vehicle cleaning operations so that overspray is captured and runoff or run-on are prevented (e.g. indoors, under cover or in bermed areas);
- 9) Minimizing impervious areas to prevent excessive runoff; and
- 10) All washwater should drain to a proper collection system, not the stormwater drainage system. The discharge of vehicle and equipment washwater, including tank cleaning operations, is not authorized by this permit. These wastewaters must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or disposed of otherwise in accordance with applicable law. The discharge of vehicle and equipment washwaters to a water of the Commonwealth requires an individual KPDES permit or appropriate alternate KPDES general permit for the entire facility as required by the eligibility requirements of this permit;
- 11) Implementing other adequately protective alternate practices.

### **3.2.3. Good Housekeeping**

The operator shall keep all exposed areas clean and well maintained, free of waste, garbage, and floatable debris and shall minimize the generation of dust and off-site tracking of raw, final, or waste materials.

### **3.2.4. Maintenance**

The operator shall regularly inspect, test, maintain, and repair all equipment and systems to minimize the potential for leaks, spills, and other releases of pollutants. All control measures, structural and non-structural, shall be diligently maintained in effective operating condition. Any defective control measure shall be repaired or replaced as expeditiously as practicable.

### **3.2.5. Spill Prevention and Response Procedures**

The operator shall minimize the potential for leaks, spills and other releases and develop plans for effective response to such spills. At a minimum, operator shall implement the following:

- 1) Procedures for plainly labeling containers (e.g., "Used Oil," "Spent Solvents," "Fertilizers and Pesticides," etc.) to encourage proper handling and facilitate rapid response if spills or leaks occur;
- 2) Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- 3) Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your Stormwater Pollution Prevention Team; and
- 4) Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies and contact information shall be kept in locations that are readily accessible and available.

**3.2.6. Management of Runoff and Run-on**

The operator shall reduce stormwater runoff and run-on to minimize the discharge of pollutants. Structural and non-structural control measures such as velocity dissipaters, diversion, infiltration, reuse, and/or containment shall be used to reduce the discharge of pollutants. Salt stockpiles shall be enclosed or covered and appropriate measures to minimize exposure during transfer shall be implemented.

**3.2.7. Employee Training**

The operator shall train all employees who work in areas where industrial materials or activities are exposed to stormwater, including all members of your Stormwater Pollution Prevention Team, inspectors, maintenance personnel, etc. Training shall address the specific control measures used to achieve the effluent requirements, monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit.

**3.2.8. Non-Stormwater Discharges**

The following non-stormwater discharges are authorized by this permit. All other non-stormwater discharges shall be eliminated by the operator or the operator shall obtain an individual KPDES permit or appropriate alternate KPDES general permit:

- 1) Fire-fighting activities;
- 2) Fire hydrant flushings;
- 3) Potable water, including water line flushings;
- 4) Uncontaminated condensate from air conditioners, coolers, and other compressors and from outside storage of refrigerated gases or liquids;
- 5) Irrigation drainage;
- 6) Landscape watering provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
- 7) Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- 8) Routine external building washdown that does not use detergents;
- 9) Uncontaminated ground water or spring water;
- 10) Foundation or footing drains where flows are not contaminated with process materials; and
- 11) Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from cooling tower.

**3.2.9. New or Expanded Discharges**

New or expanded discharges are those discharges that result in new pollutant loadings or expanded existing pollutant loadings to waters of the Commonwealth. To satisfy the antidegradation requirements and implementation procedures in 401 KAR 10:029 and 401 KAR 10:030 the operator shall implement control measures and BMPs to meet enhanced non-numeric effluent limitations for these discharges. The operator shall document in the SWPPP the selected enhanced control measures and BMPs and justification of their use. Enhanced control measures and BMPs shall be sufficient to protect surface waters of the commonwealth for their designated uses. Examples of acceptable enhanced control measures and BMPs include, but are not limited to, the following:

- 1) Selection, design, installation, implementation, and maintenance of control measures and BMPs to effectively control storm events up to and including a 2-year, 24-hour event.
- 2) Maintain a 25-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges.
- 3) Maintain a 50-foot natural vegetative buffer between the edge of the receiving water and any structure or activity that results in new or expanded discharges for receiving waters designated as a Coldwater Aquatic Habitat or Outstanding State Resource Water, categorized as an Outstanding National Resource Water or Exceptional Water, or has been listed in the most recently approved

Integrated Water Quality 305(b) Report to Congress as an Impaired Water for which an approved TMDL has not been developed for pollutants of concern that may be discharged from the facility.

- 4) Removal of wastes, garbage or floatable debris from exposed areas on a routine basis unless the operator places such materials in containers that are protected by a storm resistant covering or within secondary containment structures.
- 5) Inspections of all equipment and systems for leaks, spills, other releases of pollutants and structural control measures for capacity and integrity. Repairs or replacement of any faulty equipment or systems, the removal of sediment, cleaning or performance of repairs of structural control measures shall be affected within 24 hours of discovery of the condition unless the operator can demonstrate there are extenuating circumstances.
- 6) Minimization of the potential for leaks, spill, and other releases. Where possible, the operator should determine the level of risk of leaks, spills, and other releases for all primary and ancillary activities at a facility and develop procedures and preventative measures that result in the greatest reduction or elimination of the risk.
- 7) Utilize storm resistant covers to reduce areas of exposure (e.g. enclosing storage areas, transfer points, etc.).
- 8) Implementation of other adequately protective alternate practices.

**SECTION 4**  
**JUSTIFICATION OF EFFLUENT LIMITATIONS**  
**AND**  
**MONITORING REQUIREMENTS**

#### **4. JUSTIFICATION OF EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

KDOW has determined that it is not feasible to develop a comprehensive, standardized, technology-based effluent limitations (TBELs) and water quality-based effluent limitations (WQBELs) for all potential pollutants that may be discharged by facilities eligible for coverage under KYR00. This determination is based on the extreme variability in a number of factors related to: (1) eligible facilities, (2) potential pollutants, and (3) stormwater runoff. Although the eligibility requirements of the new KYR00 exclude a number of facilities from coverage, the number of eligible facilities is still quite large. KYR00 provides coverage for those facilities with stormwater discharges that are not more appropriately addressed by an individual KPDES permit, or alternate general KPDES permit (stormwater or other), .

##### **4.1. Effluent Monitoring Requirements**

###### **4.1.1. Oil & Grease, Total Suspended Solids and pH**

Pursuant to 401 KAR 5:070, Section 3 [40 CFR 122.48 (b)] all permits shall specify required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity. The monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:065, Section 2(4) [40 CFR 122.44(i)(1)(i)].

###### **4.1.2. Flow**

The monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:065, Section 2(4) [40 CFR 122.44(i)(1)(ii)].

##### **4.2. Non-Numeric Effluent Limitations**

In the 2008 MSGP Fact Sheet EPA discusses the difficulties in developing national effluent guidelines for industrial stormwater discharges. The gist of the discussion is that due to the variability in flows, pollutants, treatment technologies employed, etc. the development of uniform national numeric standards was not feasible. The inability to develop numeric standards did not relieve EPA from the CWA requirement to impose technology-based standards. EPA concluded that the CWA allowed EPA to use Best Management Practices in lieu of numeric effluent limitations. EPA justified this conclusion with citation of recent judicial decisions and requirements of 40 CFR 122.44(k). However EPA found that for the same reasons numeric limitations were not feasible, national BMPs could not be established. Unable to develop national effluent guidelines that established uniform technology-based requirements, EPA's final option was to develop effluent limitations using the Best Professional Judgment procedures of 40 CFR 125.3. These procedures are used to establish Best Practicable Technology (BPT), Best Conventional Pollutant Control Technology (BCT), and Best Available Technology (BAT) requirements for dischargers but cannot be used to develop NSPS requirements. NSPS requirements are based on the promulgation date of a national effluent guideline and in this case EPA has not yet been able to develop a national effluent guideline. Following these procedures EPA's resolution came in the form of non-numeric effluent limitations that required the operator to minimize the potential for contamination of industrial stormwater and the discharge of pollutants. The implementation of these requirements was accomplished through the SWPPP. Using the 2008 MSGP as a model KDOW has also reached similar conclusions and is proposing similar non-numeric effluent limitations and conditions.

As previously discussed in this fact sheet KDOW is authorized by 401 KAR 5:065, Section 2(4) [40 CFR 122.44 (k), July 1, 2008] to impose non-numeric effluent limitations in lieu of numeric effluent limitations when the imposition of numeric effluent limitations is infeasible. Due to the variability in the characteristics of the eligible facilities, receiving waters, intake waters, and storm events KDOW determined that development of numeric effluent limits was not feasible.

##### **4.3. New or Expanded Discharges**

KDOW has determined to include within the general permit a Summary of Exclusions. Section 1.1 explains in detail the eligibility requirements for facilities seeking coverage under this general permit. By

setting strict eligibility requirements KDOW limits the industrial materials and operations that can receive coverage and therefore potential impact to water bodies of the commonwealth.

Section 3 gives the non-numeric requirements of the general permit. These non-numeric requirements consist of the selection, design, installation, and implementation of control measures, including best management practices that minimize the discharge of pollutants resulting from precipitation events. Section 3 explains in detail the non-numeric technology-based effluent limitations and associated requirements with which the operator shall comply. One major requirement is the creation and implementation of the facility's SWPPP. Another requirement for the operator is that he/she shall select, design, install, and implement control measures and BMPs that consider the following:

- 1) Prevention of stormwater contact with materials that may contaminate the stormwater;
- 2) Use of control measures in combination;
- 3) Assess pollutant types and quantity and their potential impact on water quality;
- 4) Minimization of impervious surfaces;
- 5) Optimization of onsite infiltration of runoff;
- 6) Use of vegetated swales and natural depressions to attenuate flows;
- 7) Conservation and/or restoration of riparian buffers; and
- 8) Use of treatment interceptors.

The candidate control measures and BMPs shall be in accordance with good engineering practices and manufacturer's specifications. The operator shall provide justification and documentation of rationale for any deviation from the manufacturer's specification in the SWPPP.

KDOW has determined to include within the general permit additional protective requirements for facilities with new or expanded discharges to High Quality Waters such that compliance with these requirements result in no significant degradation in receiving waters due to the permitted activity. Section 3.2.9 explains in detail these additional protective requirements, also called enhanced control measures and BMPs, whereas a short list is given below.

Enhanced control measures and BMPs include:

1. A requirement to effectively control storm events up to and including a 2-year 24-hour event;
2. Buffer zones between the structure or activity and the receiving water;
3. Routine cleaning of areas that could be exposed to rain, snow, snowmelt, and runoff;
4. Inspections of equipment and systems;
5. Timely repairs of faulty equipment, systems, and structural control measures;
6. Minimization of the potential for leaks, spills and other releases;
7. Reduction of exposed areas by the utilization of storm resistant covers.

KDOW has determined that antidegradation requirements have been satisfied by this permit action. The process described above for new or expanded discharges of stormwater runoff associated with industrial activities is consistent with the requirements of 401 KAR 10:029 Section 1, 401 KAR 10:030 Section 1 and 401 KAR 10:031 Section 4.

**SECTION 5**  
**SCHEDULE OF COMPLIANCE**  
**AND**  
**OTHER CONDITIONS**

## **5. SCHEDULE OF COMPLIANCE AND OTHER CONDITIONS**

### **5.1. Schedule of Compliance**

The permittee shall attain compliance with all requirements of this permit on the effective date of this permit unless otherwise stated.

### **5.2. Antidegradation**

The conditions of 401 KAR 10:029, Section 1 have been satisfied. This permitting action is a reissuance of a KPDES general permit for stormwater discharges from industrial activities not addressed by an individual KPDES permit, or alternate KPDES general permit.

### **5.3. Stormwater Pollution Prevention Plan (SWPPP)**

The SWPPP is the mechanism whereby the operator documents the specific control measures that will be used to meet the non-numeric limits discussed in Section 3.2 of this fact sheet and to document compliance with other permit requirements such as inspections, monitoring, recordkeeping and reporting. It is similar to a BMP Plan in form and function and must be reviewed periodically and modified to ensure its effectiveness. Because of this similarity, the requirement to develop, implement, and maintain an up-to-date SWPPP and its components is authorized pursuant to 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k), July 1, 2008]. Permits are to include Best Management Practices (BMPs) to control or abate the discharge of pollutants when: 1) authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities; 2) authorized under Section 402(p) of the CWA for the control of stormwater discharges; 3) numeric effluent limitations are infeasible; or 4) the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

### **5.4. Inspections**

A necessary component of any SWPPP to ensure its effectiveness is the inspections conducted by the operator. Periodic routine inspections, inspections after significant precipitation events, and an annual site assessment as part of the SWPPP review are essential in achieving and maintaining compliance with the conditions of the permit. These inspections alert the operator to actual and potential deficiencies in the SWPPP, control measures and BMPs that have or may result in substandard discharges thus initiating appropriate actions by the operator. As a necessary component of the SWPPP the requirement to conduct such inspections are authorized by 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k), July 1 2008].

### **5.5. Corrective Actions**

This section of the permit requires the permittee to evaluate, revise and implement as necessary the control measures and BMPs in response to: unpermitted discharges, inspections, or changes at the facility. These actions are to be documented by the facility's Stormwater Pollution Prevention Team in a Corrective Action Report. These requirements are consistent with 401 KAR 5:065, Section 2(4) [40 CFR 122.44(k), July 1 2008] and are necessary to ensure effective stormwater controls are implemented at all times.

### **5.6. Notice of Intent**

The new electronic NOI-KYR00 will provide the necessary information to enable KDOW to better determine the eligibility of a facility seeking coverage under this general permit and the applicable requirements for the facility seeking coverage under this general permit. Should KDOW receive an NOI-KYR00 that upon review KDOW determines that a potential for degradation or permanent lowering of water quality could result KDOW will request additional information, which may include the SWPPP. KDOW will base its determination on a number of factors including but not limited to the amount of disturbance within the watershed, the proximity to drinking water sources or waters not categorized as "High Quality," size and duration of the project, etc. If, based upon review of the additional information, KDOW determines that additional controls and requirements beyond those in the KYR00 general permit



are needed to meet antidegradation requirements the applicant shall be required to obtain an individual permit.

Facilities which have applied for an individual KPDES stormwater discharge permits (IPs) between 10-1-2007 and the effective date of this permit may be eligible for coverage under this permit, assuming they are not excluded under the Summary of Exclusions. If a facility has received an IP in this interim period the Operator should submit the NOI and indicate that a general permit was not available when operation began. If a facility has applied for an IP but KDOW has not yet issued the IP, the Operator should submit an NOI.

#### **5.7. Conditional Exclusion for No Exposure**

Facilities that do not have any industrial materials or operations exposed to stormwater may be excluded from the KPDES industrial stormwater requirements of 401 KAR 5:060, Section 8 [40 CFR 122.26(g), July 1, 2008]. Operators seeking this conditional exclusion are required to submit an electronic “No Exposure Certification” using the eNoExposure form on KDEP’s forms library site at: <http://dep.ky.gov/formslibrary/Pages/default.aspx>. This certification is time limited and must be resubmitted upon each reissuance of the KYR00 Other Facilities Stormwater General Permit in order to continue the exclusion for the next permit term.

#### **5.8. Outfall Signage**

The KPDES permit establishes monitoring points, effluent limitations, and other conditions to address discharges from the permitted facility. As a member of ORSANCO KDOW is obligated to include language in KPDES permits authorizing discharges to the Ohio River, that notifies the permittee of the permanent marker requirements of Part V, Section A 3 of ORSANCO’s Pollution Control Standards. For all other receiving waters KDOW recommends the permittee place and maintain a permanent marker at each of the monitoring locations to better document and clarify these locations.

## **SECTION 6**

### **OTHER INFORMATION**

## **6. OTHER INFORMATION**

### **6.1. Permit Duration**

The permit shall have a duration of five (5) years from the effective unless modified or reissued. This permit includes facilities in all five Basin Management Units of the Kentucky Watershed Management Framework.

### **6.2. Permit and Public Notice Information**

The draft permit, fact sheet and public notice are available on the DOW Public Notice web page and the Department of Environmental Protection's Pending Approvals Search web page at:

<http://water.ky.gov/Pages/PublicNotices.aspx>:

[http://dep.gateway.ky.gov/eSearch/Search\\_Pending\\_Approvals.aspx?Program=Wastewater&NumDaysDoc=30](http://dep.gateway.ky.gov/eSearch/Search_Pending_Approvals.aspx?Program=Wastewater&NumDaysDoc=30)

Comments may be filed electronically at the following e-mail address: [DOWPublicNotice@ky.gov](mailto:DOWPublicNotice@ky.gov)

Or by sending written comments to:

Division of Water  
Surface Water Permits Branch  
200 Fair Oaks Lane  
Frankfort, Kentucky 40601

### **6.3. References and Cited Documents**

All material and documents referenced or cited in this fact sheet are parts of the permit information as described above and are readily available at the Division of Water Central Office. Information regarding these materials may be obtained from the Division of Water's Open Records Coordinator at (502) 564-3410 or by e-mail at [dowopenrecords@ky.gov](mailto:dowopenrecords@ky.gov).

## **SECTION 7**

### **ABBREVIATIONS, ACRONYMS AND DEFINITIONS**

**2 year, 24 hour rainfall event** - means a rainfall event with a probable recurrence interval of once in two years as defined by the National Weather Service in Technical Paper No. 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed there from.

**Administrator** - means the Administrator of the United States Environmental Protection Agency, or an authorized representative

**Adversely affect or adversely change** - Means to alter or change the community structure or function, to reduce the number or proportion of sensitive species, or to increase the number or proportion of pollution tolerant aquatic species so that aquatic life use support or aquatic habitat is impaired.

**Antidegradation** - A policy developed and adopted as part of a state's water quality standards that ensures protection of existing uses and maintains the existing level of water quality where that water quality exceeds levels necessary to protect fish and wildlife propagation and recreation on and in the water. This policy also includes special protection of water designated as Outstanding National Resource Waters.

**Application** - means the document submitted by an applicant to the cabinet that provides information used by the cabinet in the issuance of a permit or approval.

**Best Management Practice (BMP)** - means: (a) For agriculture operations, as defined by KRS 224.71-100(3); or (b) For all other purposes: 1. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the commonwealth; and 2. Treatment requirements, operating procedures, practices to control site run-off, pollution of surface water and groundwater from nonpoint sources, spillage or leaks, sludge or waste disposal, or drainage from raw material storage

**Bypass** - means the intentional diversion of sewage or waste-streams from a portion of a facility or industrial user's treatment facility.

**Calendar day** - means for the purpose of this permit, any 24-hour period.

**Clean Water Act (CWA)** - The Clean Water Act is a statute passed by the U.S. Congress to control water pollution. It was formerly referred to as the Federal Water Pollution Control Act of 1972 or Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), 33 U.S.C. 1251 *et seq.*, as amended by: Public Law 96-483; Public Law 97-117; Public Laws 95-217, 97-117, 97-440, and 100-04.

**Code of Federal Regulations (CFR)** - A codification of the final rules published daily in the *Federal Register*. Title 40 of the CFR contains regulations for the protection of the environment.

**Compliance Schedule (or Schedule of Compliance)** - A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the CWA and regulations.

**Contaminated stormwater** – means for this permit only stormwater which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Sources of contaminated stormwater include but are not limited to: (1) the open face of an active landfill with exposed waste (no cover added), (2) the areas around wastewater treatment operations, (3) trucks, equipment or machinery that has been in direct contact with the waste, and (4) waste dumping areas.

**Control measure** – refers to any BMP or other method (including effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the Commonwealth

**Daily maximum concentration** - means the daily determination of concentration as an instantaneous maximum that cannot be exceeded by any sample.

**Daily precipitation log** - means a daily record of precipitation levels maintained by the permittee to provide proof that a qualifying event has occurred within the preceding 24 hours. This may take the form of daily readings of local rain gages, National Oceanic and Atmospheric Administration data, etc.

**Day** - means a twenty-four (24) hour period.

**Discharge monitoring report (DMR)** - The state approved form, including any subsequent additions, revisions, or modifications for the reporting of self- monitoring results by permittees.

**Discharge or discharge of a pollutant** - means the addition of a pollutant or combination of pollutants to waters of the commonwealth from a point source.

**Diversions** - means a channel, embankment, or other manmade structure constructed for the purpose of diverting water from one area to another

**Division** - means the Kentucky Division of Water, within the Department for Environmental Protection, Energy and Environment Cabinet.

**Domestic** - means relating to household wastes or other similar wastes. It is used to distinguish municipal, household, or commercial water or wastewater services from industrial water or wastewater services.

**Domestic sewage** - means sewage devoid of industrial or other wastes and that is typical of waste received from residential facilities. It may include wastes from commercial developments, schools, restaurants, and other similar developments.

**Draft permit** - means a document prepared pursuant to 401 KAR 5:075 indicating the cabinet's preliminary decision to issue or deny, modify, revoke and reissue, revoke, or reissue a permit. It includes a notice of intent to revoke a permit and a notice of intent to deny a permit as provided in 401 KAR 5:075. It does not include a proposed permit; a denial of a request for modification, revocation, and reissuance; or a denial of a request for revocation.

**Edge of the Receiving Water** – means for the purposes of this permit is defined as the bankfull elevation of a water of the Commonwealth.

**Effluent ditch** - means that portion of a treatment system that is a discrete, person-made conveyance, either totally owned, leased or under valid easement by the discharger that transports a discharge to surface waters of the commonwealth.

**Effluent limitation** - Any restriction imposed by the KPDES permit on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the Commonwealth.

**Effluent limitations guidelines (Effluent Guidelines or ELG)** - A regulation published by the Administrator under CWA section 304(b) to adopt or revise effluent limitations.

**Environmental Protection Agency, "EPA", or "U.S.EPA"** - means the U.S. Environmental Protection Agency.

**EPA approved or established Total Maximum Daily Loads (TMDLs)** – EPA approved TMDLs are those TMDLs developed by the commonwealth and approved by EPA. EPA established TMDLs are those TMDLs developed by EPA.

**Exceptional water (EW)** - means a surface water categorized as exceptional by the cabinet pursuant to 401 KAR 10:030.

**Facility** - means: (a) In 401 KAR 5:005 or 401 KAR 5:006, a sewage system as defined in KRS 224.01-010 except for septic tanks, pretreatment facilities regulated by an approved pretreatment program or intermunicipal agreement, and disposal wells as used in 401 KAR 5:090; or (b) In 401 KAR 5:050 through 401 KAR 5:080 and if used in conjunction with activity, and KPDES point source, or any other facility, including land or related appurtenances, that is subject to regulation under the KPDES program.

**Fact Sheet** - A document that must be prepared for all draft KPDES permits, the document summarizes the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit and explains how the public may comment.

**Grab sample** -A sample taken from a wastestream on a one-time basis without consideration of the flow rate of the wastestream and without consideration of time.

**Groundwater** - means the subsurface water occurring in the zone of saturation beneath the water table and perched water zones below the B soil horizon including water circulating through fractures, bedding planes, and solution conduits.

**Hazardous substance** - Any substance as designated under Part 116 pursuant to CWA section 311—that presents an imminent and substantial danger to the public health or welfare, including fish, shellfish, wildlife, shorelines, and beaches, upon discharge to navigable waters of the United States.

**Impact** - means a change in the chemical, physical, or biological quality or condition of a surface water.

**Industrial stormwater** – stormwater runoff from industrial activity

**Kentucky Pollutant Discharge Elimination System (KPDES)** - means the Kentucky program for issuing, modifying, revoking and reissuing, revoking, monitoring and enforcing permits to discharge, and imposing and enforcing pretreatment requirements.

**KPDES permit** - means a Kentucky Pollutant Discharge Elimination System permit issued to a facility, including a POTW, or activity pursuant to KRS Chapter 224 for the purpose of operating the facility or activity.

**Landfill directly associated with an industrial or commercial operations** – means: (1) a landfill located on the same site as industrial or commercial operations, and (2) a landfill not located on the same site as the industrial or commercial operations (off-site, but “wholly-owned” by the industrial or commercial facility and primarily dedicated to receiving waste from the related industrial or commercial facility.

**Landfill unit** – means an area of land or excavation in which wastes are placed for permanent disposal, that is not a land application or land treatment unit, surface impoundment, underground injection well, waste pile, salt dome formation, a salt bed formation, an underground mine or a cave.

**Landfill Wastewaters** – means all wastewaters associated with, or produced by, landfilling activities except sanitary wastewater, non-contaminated stormwater, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated stormwater runoff and contact wash water from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility.

**Load Allocation (LA)** - The portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished.

**Measurement** - means the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

**Method Detection Limit (MDL)** - The minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

**Milligrams per liter (mg/l)** - mean the milligrams of substance per liter of solution and are equivalent to parts per million in water, assuming unit density.

**Million gallons per day (or MGD)** - A unit of flow commonly used for wastewater discharges. One million gallon per day is equivalent to 1.547 cubic feet per second.

**Minimize Exposure** – means to reduce and/or eliminate to the extent achievable using control measures, including BMPs, that are technologically available and economically practicable and achievable in light of best industry practice. EPA MSGP 2008

**Monthly average concentration** - means the arithmetic average of all sample concentrations collected during a calendar month.

**National Pollutant Discharge Elimination System (NPDES)** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA sections 307, 318, 402, and 405. The term includes approved program. NPDES permits regulate discharges of pollutants from point sources to waters of the United States. Such discharges are illegal unless authorized by an NPDES permit.

**New discharger** – facility from which there is a discharge, that did not commence the discharge at a particular site prior to August 13, 1979, which is not a new source, and which has never received a finally effective KPDES permit for discharges at that site.

**New Source** – any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

(1) after promulgation of standards of performance under section 306 of the CWA which are applicable to such source, or 2) after proposal of standards of performance in accordance with section 306 of the CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Non-contaminated stormwater** – means stormwater which does not come in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Includes stormwater which flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill

**Nonpoint Source** - Diffuse pollution sources (i.e., without a single point of origin or not introduced into a receiving stream from a specific outlet). The pollutants are generally carried off the land by stormwater. Atmospheric deposition and hydromodification are also sources of nonpoint source pollution.

**No exposure** - all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff.

**Oil** - means oil of any kind or in any form, including, but not limited to: fats, oils, or greases of animal, fish, or marine mammal origin; vegetable oils, including oils from seeds, nuts, fruits, or kernels; and, other oils and greases, including petroleum, fuel oil, sludge, synthetic oils, mineral oils, oil refuse, or oil mixed with wastes other than dredged spoil.

**Operator** - any entity with a stormwater discharge associated with industrial activity that meets either of the following two criteria: (i) The entity has operational control over industrial activities, including the ability to modify those activities; or (ii) The entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit)

**Outfall** - means, for municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to waters of the Commonwealth, but does not include open conveyances connecting two (2) municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the Commonwealth and are used to convey waters of the Commonwealth.



**Other wastes** - means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage, wastes from agricultural enterprises, and other foreign substances not included within the definitions of industrial wastes and sewage that may cause or contribute to the pollution of waters of the Commonwealth.

**Outstanding National Resource Water (ONRW)** - means a surface water categorized by the cabinet as an outstanding national resource water pursuant to 401 KAR 10:030.

**Outstanding State Resource Water (OSRW)** means a surface water designated by the cabinet as an outstanding state resource water pursuant to 401 KAR 10:031.

**Overflow** - means any intentional or unintentional diversion of flow from a facility.

**Owner** - means a person who has legal ownership of a facility or activity regulated pursuant to 401 KAR Chapter 5.

**Permitting Authority** - means the agency authorized to issue and enforces specific requirements of the NPDES permit program. The permitting authority may be EPA, or a state, territorial, or tribal agency that has been authorized under CWA section 402(b) to administer the NPDES program within its jurisdiction.

**Petroleum oil** - means petroleum in any form, including but not limited to crude oil, fuel oil, mineral oil, sludge, oil refuse, and refined products.

**pH** - A measure of the hydrogen ion concentration of water or wastewater; expressed as the negative log of the hydrogen ion concentration in mg/L. A pH of 7 is neutral. A pH less than 7 is acidic, and a pH greater than 7 is basic.

**Point source** - means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, culvert, tunnel, conduit, well, discrete fissure, container, wet seals, mine adits, seeps, or sumps, from which pollutants are or may be discharged.

**Pollutant** - Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 *et seq.*]), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean: (a) Sewage from vessels. (b) Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.

**Pollutant of concern** – A pollutant which causes or contributes to a violation of a water quality standard, including a pollutant which is identified as causing an impairment in a state's 303(d) list.

**Primary industrial activity** – includes any activities performed on-site which are (1) identified by the facility's primary SIC code; or (2) included in the narrative descriptions of 401 KAR 5:002, Section 1(156) [122.26(b)(14)(i), (iv), (v), or (vii), and (ix)]. [For co-located activities covered by multiple SIC codes, it is recommended that the primary industrial determination be based on the value of receipts or revenues or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.] Narrative descriptions in 401 KAR 5:002, Section 1(156) [40 CFR 122.26(b)(14)] identified above include: (i) activities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; (iv) hazardous waste treatment storage, or disposal facilities including those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act (RCRA); (v) landfills, land application sites and open

dumps that receive or have received industrial wastes; (vii) steam electric power generating facilities; and (ix) sewage treatment works with a design flow of 1.0 MGD or more.

**Primary Industry Category** - Any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al. v. Train*, 8 E.R.C. 2120 [D.D.C. 1976], modified 12 E.R.C. 1833 [D.D.C. 1979]); also listed in Appendix A of Part 122.

**Proposed permit** - means a KPDES permit prepared after the close of the public comment period and, if applicable, any public hearing and administrative appeals that is sent to U.S. EPA for review before final issuance by the cabinet. A proposed permit is not a draft permit.

**Reportable Quantity Release** – a release of a hazardous substance, at or above the established legal threshold, that requires emergency notification.

**Schedule of compliance** - means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to compliance with KRS Chapter 224 and 401 KAR Chapters 4 through 11.

**Significant materials** – includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

**Significant Spills** – A release as defined in KRS 224.01-400.

**Site** - means, as used in 401 KAR 5:060 through 5:080, the land or water area where a facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

**Source** - means a building, structure, facility, or installation from which there is or may be a discharge of pollutants.

**Standard Industrial Classification (SIC) Code** - A code number system used to identify various types of industries. A particular industry may have more than one SIC code if it conducts several types of commercial or manufacturing activities onsite. An online version of the 1987 SIC Manual <[www.osha.gov/pls/imis/sic\\_manual.html](http://www.osha.gov/pls/imis/sic_manual.html)> is available courtesy of the Occupational Safety & Health Administration (OSHA).

**Stormwater (or Storm Water)** - Stormwater runoff, snow melt runoff, and surface runoff and drainage.

**Stormwater discharges associated with construction activity** – a discharge of pollutants in stormwater runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavating), construction materials, or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

**Stormwater discharges associated with industrial activity** – the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under Part 122. For the categories of industries identified in this section, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at part 401 of this chapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final

products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities include those that are federally, State, or municipally owned or operated that meet the description of the facilities. The following categories of facilities are considered to be engaging in "industrial activity":

- i. Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi));
- ii. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- iii. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
- iv. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;
- v. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under subtitle D of RCRA;
- vi. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- vii. Steam electric power generating facilities, including coal handling sites;
- viii. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i)–(vii) or (ix)–(xi) of this section are associated with industrial activity;
- ix. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with section 405 of the CWA;

- x. Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more;
- xi. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221–25;

**Surface waters** - means those waters having well-defined banks and beds, either constantly or intermittently flowing; lakes and impounded waters; marshes and wetlands; and any subterranean waters flowing in well-defined channels and having a demonstrable hydrologic connection with the surface. Lagoons used for waste treatment and effluent ditches that are situated on property owned, leased, or under valid easement by a permitted discharger are not considered to be surface waters of the commonwealth.

**Total Maximum Daily Load (TMDL)** - The sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If best management practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

**Total Suspended Solids (TSS)** - means the total suspended solids (non-filterable residue) as determined by use of the method specified in 40 CFR Part 136.

**Toxic Pollutant** - Any pollutant listed as toxic under CWA section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing CWA section 405(d).

**Toxic substance** - means a substance that is bioaccumulative, synergistic, antagonistic, teratogenic, mutagenic, or carcinogenic and causes death, disease, a behavioral abnormality, a physiological malfunction, or a physical deformity in an organism or its offspring or interferes with normal propagation.

**Upset** - means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**Water or Waters of the Commonwealth** means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction

**Water quality standard** - means an administrative regulation promulgated by the cabinet establishing the designated use of a surface water and the water quality criteria necessary to maintain and protect that designated use.